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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,863	06/19/2006	Mark F. Werner	9261-000005/US/NP	1089
27572 7590 10/04/2007 HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			EXAMINER BLACK, MELISSA ANN	
			ART UNIT 3612	PAPER NUMBER
			MAIL DATE 10/04/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/576,863

Applicant(s)

WERNER, MARK F.

Examiner

Melissa A. Black

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3 and 5-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,5-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____.

DETAILED ACTION

1. This Office Action is in response to Amendments and Remarks filed 9 July 2007.

Currently Claims 1, 3, 5-20 are pending in the application and are rejected as set forth below.

Claims 2 and 4 have been cancelled

Response to Arguments

2. Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

4. Claims 1, 9, 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19938511 in view of US Pat # 6,805,398 to Harima et al.

Re Claim 1, DE 19938511 discloses a liftgate frame for a liftgate of a motor vehicle, said frame assembly (Figure 2) comprising: an upper frame member having an inner (20) and outer (27, Figure 13) header panel and adapted to be pivotally secured to the motor vehicle; and a generally U-shaped (1), integrally formed lower frame member fixedly secured to said upper frame member (20), said lower frame member (1) including spaced apart, downwardly extending (17) vertical segments and a horizontal segment (18) extending between said vertical segments for supporting the liftgate as the liftgate opens and closes. DE 19938511 further discloses a reinforcement member (21) fixedly secured to said inner header panel (20) and to one of said vertical segments (17) for reinforcing the attachment between said upper and lower frame members.

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DE 19938511 fails to disclose that the inner and outer head panels are fixedly secured to one another, and that the reinforcement member is fixedly secured to the outer header panel as well as the inner header panel.

Harima et al teaches that the inner and outer header panels are fixedly secured to one another (See Figure 3).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to use the outer head panel fixedly secured to the inner panel as taught by Harima et al in the device of DE 19938511 in order to strengthen the connection for the upper frame members. Therefor in combining the outer panel of Harima et al with the inner panel of DE 19938511 the reinforcement member would be fixedly secured to both the inner and outer panels.

Re Claims 9 and 10, DE 19938511 discloses the reinforcement wherein said first portion of said reinforcement member extends substantially perpendicularly from said second portion, and wherein said reinforcement member includes a substantially "L"-shaped cross-section (See Figure 2).

Ré Claim 12, DE 19938511 disclose that the lower frame member is tubular, but fails to disclose that the wiring extending through the lower frame, but it would have been obvious to one with ordinary skill in the art at the time the invention was made to run the wire through the lower frame since it is common knowledge in the art to run wires through framing to further protect them from damage during simple use.

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5. Claims 5-8, 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19938511 and US Pat # 6,805,398 to Harima et al in view of US Pat # 6,220,649 to Rife.

Re Claim 5, the combination fails to disclose the use of a tailgate hinge coupled to said horizontal segment of said lower frame member.

Rife teaches the use of a tailgate hinge (72) coupled to the horizontal segment of said lower frame

It would have been obvious to one with ordinary skill in the art to have the tailgate hinge couple to the horizontal segment of the frame as taught by Rife on the device of DE 19938511 in order to strengthen the connection between the tailgate and the vehicle.

Re Claim 6, the combination of DE 19938511 and Harima et al fail to disclose the use of a window hinge coupled to said liftgate frame and Re Claim 7, wherein said tailgate hinge and said window hinge are adapted to allow a window and a tailgate to rotate about parallel axes.

Rife teaches the use of a window hinge (32) couple to said liftgate frame and wherein the tailgate hinge and the window hinge are adapted to allow a window and a tailgate to rotate about parallel axes (See Figure 3).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to include the window hinge and tailgate hinge in order to operate both the door and the tailgate separately.

Re Claim 8, DE 19938511 fails to disclose a frame latch fixed to said horizontal segment of said lower frame member.

Harima et al teaches the use of the frame latch (20) located on the horizontal segment of the lower frame member (11).

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It would have been obvious to place the frame latch on the horizontal segment as taught by Harima et al on the device of DE 19938511 in order to secure the lower frame in a locked position.

Re Claims 13-15, the above is hereby referenced.

6. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19938511, US Pat # 6,805,398 to Harima et al and US Pat # 6,220,649 to Rife in view of US Pat # 6,719,356 to Cleland et al.

Re Claim 19, the combination fails to disclose the use of an electronic module coupled to said liftgate, adapted to output signals indicative of the position of said liftgate frame, the window and the tailgate.

Cleland et al teaches the use of a control module (41) coupled to the liftgate to indicate the position of the liftgate frame, the window and the tailgate.

It would have been obvious to one with ordinary skill in the art at the time the invention was made to use the control module as taught by Cleland et al on the device of the combination in order to prevent an obstruction from being pinched in the frame, liftgate or window during electronic operation.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE19938511 and US Pat # 6,805,398 to Harima et al in view of US Pat # 6,053,562 to Bednarski.

Re claim 3, DE 19938511 fails to disclose that the lower frame member (1) is formed by tubular hydroforming of a metal material.

Bednarski teaches that the liftgate frame (12) can be formed by tubular hydroforming (Claim 2).

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It would have been obvious to one with ordinary skill in the art at the time the invention was made to use tubular hydroforming as taught by Bednarski on the device of DE 19938511, in order to form thin cross-sections and rounded corners.

8. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19938511 and US Pat # 6,805,398 to Harima et al in view of DE 19713317.

Combination of DE 19938511 and Harima et al fails to disclose how the reinforcement is attached to the lower frame.

DE 19713317 teaches the use of a reinforcement that is attaches at a second part (19) by being partially positioned within the tubular lower frame.

It would have been obvious to use the connection as taught by DE 19713317 on the device of DE 19938511 in order to strengthen the connection of the reinforcement piece and the lower frame.

9. Claims 17-18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 19938511, US Pat # 6,805,398 to Harima et al and US Pat # 6,220,649 to Rife in view of DE19713317.

Re Claim 17, combination fails to disclose the reinforcement member extends into the tubular lower frame member.

DE 19713317 teaches the reinforcement member extends into the tubular lower frame and it would have been obvious to do this to strengthen the connection of the reinforcement and the lower frame.

Re Claim 18 and 20, above is hereby referenced.

Conclusion

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10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melissa A. Black whose telephone number is (571) 272-4737. The examiner can normally be reached on M-F 7:00-3:30 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenn Dayoan can be reached on (571) 272-6659. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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AV 3612

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